

and Service-Disabled Veteran Program (SDV).

Participating Lender (PL) is a bank or other lending institution that has agreed to the terms of a cooperative agreement and has been formally accepted into the STLP by DOT OSDBU.

Small and disadvantaged business (SDB) includes 8(a); small disadvantaged business; women-owned business, HubZone, and service-disabled veteran-owned business.

Socially and economically disadvantaged individual has the same meaning as stated in 49 CFR 26.5.

Technical assistance means service provided by the Participating Lender to the DBE or SDB that will enable the DBE or SDB to become more capable of managing its transportation-related contracts. Technical assistance can be provided by collaborating with agencies that offer small business management counseling such as the SBA, the U. S. Department of Commerce's Minority Business Development Centers (MBDCs), the Service Corps of Retired Executives (SCORE), Procurement Technical Assistance Centers (PTACs), and Small Business Development Centers (SBDCs).

Transportation-related contract means a contract, subcontract, or purchase order, at any tier, for the maintenance, rehabilitation, restructuring, improvement, or revitalization of any of the nation's modes of transportation that receive DOT funding.

Work-out means a plan that offers options to avoid loan default or collateral foreclosure and/or liquidation that is intended to resolve delinquent loans or loans in imminent default, which may include, but not limited to: deferring or forgiving principal or interest, reducing the borrower's interest rate, extending the loan maturity and the government guarantee to the Participating Lender, or postponing collection action.

Subpart B—Policies Applying to STLP Loans

§ 22.11 Eligibility criteria.

(a) *Eligible Borrower*. To be eligible to apply for a STLP loan guarantee, a borrower must meet the following requirements:

- (1) Be a for-profit entity;
- (2) Have an eligible transportation-related contract;
- (3) Demonstrate an eligible use for the desired credit;
- (4) Be an established business with experience in the transportation industry and trade for which the STLP loan is sought;
- (5) Be certified as a DBE or have another eligible certification issued by the SBA; and
- (6) Be current on all federal, state, and local tax liabilities.

(b) *Eligible Transportation-Related Contract*. Any fully-executed transportation-related contract, subcontract, or purchase order held directly with DOT or with grantees and recipients receiving federal funding from DOT for the maintenance, rehabilitation, restructuring, improvement or revitalization of any of the nation's modes of transportation shall be considered an eligible contract.

(c) *Eligibility Period*. A borrower is eligible for participation in the STLP for a period up to a total of five (5) years. The STLP renewal is not automatic. The borrower has to demonstrate its continued eligibility and creditworthiness for STLP and must submit a complete application package.

(1) The continued eligibility of any borrower who would exceed the period limit in paragraph (c) of this section will be determined on a case-by-case basis by the OSDBU Director and is subject to the following provisions:

- (i) The STLP loan guarantee may be reduced; and
- (ii) The STLP loan interest rate may be increased.

(2) Should any borrower currently in the STLP become ineligible per paragraph (a) of this section during the term of a STLP loan, the failure to comply with a specific requirement must be brought to the immediate attention of all remaining parties.

(3) Borrower ineligibility may result in a termination of the current guarantee.

§ 22.13 Loan terms and conditions.

(a) *Amount*. The maximum face amount for an individual STLP loan may not exceed seven hundred and fifty thousand (\$750,000) dollars, unless the

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requested increased amount is authorized by the OSDBU Director.

(b) *Interest Rates.* All STLP loans shall have a variable interest rate.

(1) *Initial Interest Rate.* The base rate guideline for STLP loans is the prime rate in effect on the first business day of the month in which the STLP loan guarantee is approved by DOT OSDBU. The prime rate is the rate printed in a national financial newspaper published each business day. The Participating Lender may increase the base rate by the maximum allowable percentage points currently allowed by STLP policies and procedures and as communicated in subsequent DOT OSDBU notices.

(2) *Frequency of Change.* The first change may occur on the first calendar day of the month following the initial loan disbursement, using the above base rate in effect on the first business day of the month. Subsequent interest rate changes may occur no more than monthly.

(c) *Loan Structure and Term.* A STLP loan shall be set up as a revolving line of credit. The line permits the borrower to request principal advances, pay them back, and then re-borrow, not to exceed the face value of the line of credit. Participating Lenders are required to provide DOT OSDBU written notification of the activation date of each line of credit under the STLP. The term of the Federal guarantee of the line of credit commences on the activation date.

(d) *Repayment.* Interest payments must be made monthly. The principal of the loan is repaid as payment from approved accounts receivable are received by the Participating Lender through a joint payee check system. The assigned contract supporting the STLP loan is the primary source of repayment.

(e) *Use of Loan Proceeds.* STLP loans must be used to finance short-term working capital needs, specifically direct costs generated by the assigned contract. Proceeds may not be used for the following purposes:

(1) For long term working capital;

(2) To repay delinquent State or Federal withholding taxes, local taxes, sales taxes or similar funds that should be held in trust or escrow; and/or

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(3) To provide funds for the distribution or payment to the owners, partners or shareholders of the business; and/or

(4) To retire short or long-term debt.

(f) Non-compliance by the DBE in using the STLP loan for purposes not consistent with these regulations will result in a non-renewal of the STLP loan and in forfeiture of the STLP loan guarantee to the PL on any ineligible principal advances requested by the borrower and made by the PL.

(g) *Disbursements.* STLP funds may only be released to an eligible borrower upon the submission and verification of a valid written accounts receivable invoice, showing labor and/or materials amounts due for completed work on the contract. The Participating Lender must verify the accuracy of the invoice with the paying transportation government agency, if the borrower is a prime contractor, and/or with the prime contractor, if the borrower is a subcontractor. This verification must be obtained by the Participating Lender prior to advancing funds. No more than 85% of an approved accounts receivable invoice shall be advanced to the borrower by the Participating Lender.

(1) Processing time. Disbursement of STLP funds to the borrower should be accomplished within three (3) business days of an accounts receivable invoice approval by the paying agency and/or prime contractor.

(2) Electronic funds transfer. If the disbursement of STLP funds is being sent to the borrower through a local Participating Lender, the disbursement should be made by electronic funds transfer with the preferred method of payment being the Automated Clearing House (ACH) system.

(3) Wire transfers. Wire transfers can be used if the ACH system is not available or if a same day disbursement is required.

(4) Joint payee check system. A two-party payee check system is required in which the Participating Lender and the borrower will be the co-payees of any checks paid to the borrower for performance under the assigned contract. Alternative payment methods must have prior written approval by DOT OSDBU.

(h) *Personal Guarantees.* Individuals who own at least a 20% ownership interest in the borrower shall personally guarantee the STLP loan. DOT OSDBU, in its discretion and in consulting with the Participating Lender, may require other appropriate guarantees for the loan as well.

(i) *Collateral.* All advances under the STLP loan must be secured, at a minimum, by the assignment of the proceeds due under the transportation-related contract(s) being funded with loan proceeds (the Assigned Contract). The Participating Lender must have first lien position on the Accounts Receivable generated by the Assigned Contract. The Participating Lender and/or DOT OSDBU may request additional collateral on any loan request or loan guarantee request in order to mitigate the credit risk and reduce potential defaults and loan losses.

(j) *Key Person Life Insurance.* The assignment of existing life insurance policies of personal guarantors or other individuals critical to the borrower's operations may be required by the Participating Lender and/or DOT OSDBU in certain instances; and it is encouraged for those business applicants that do not have a management succession plan clearly in place or where a personal guarantee provides nominal financial strength to the credit.

§ 22.15 Delinquency on Federal, State, or Municipality Debt.

(a) The borrower must not be delinquent on any Federal, State, or municipality debt, including tax debts. Further, none of the principals and/or owners of the borrower can be delinquent on any Federal, State, or municipality debt, including personal tax debt. The borrower must acknowledge its status in writing as part of any STLP loan guarantee application. Participating Lenders and the DOT OSDBU must verify the borrower's status through the use of business and personal credit reports, as well as other appropriate Federal and State databases.

(b) If any delinquencies are determined during the application process, consideration of the request must be suspended until the delinquency is satisfactorily resolved, as determined and

approved by the Director. If the delinquency cannot be resolved within a reasonable amount of time, the loan request must be declined.

§ 22.17 Compliance with child support obligations.

Any holder of 50% or more of the ownership interest in the recipient of a STLP Loan must certify that he or she is not more than 60 days delinquent on any obligation to pay child support arising under:

- (a) An administrative order;
- (b) A court order;
- (c) A repayment agreement between the holder and a custodial parent; or
- (d) A repayment agreement between the holder and a State agency providing child support enforcement services.

§ 22.19 Credit criteria.

An applicant for a STLP loan must be creditworthy and demonstrate an ability to repay the loan as well as satisfactory handling of the repayment of past and current debts. The Participating Lender and DOT OSDBU shall consider:

- (a) Character, reputation, and credit history of the applicant, its principals and owners, and all other guarantors;
- (b) Experience and depth of key management in the industry;
- (c) Financial strength of the business;
- (d) Past earnings, projected earnings and cash flow, and work in progress;
- (e) Ability to repay the loan;
- (f) Sufficient equity to operate on a sound financial basis; and
- (g) Capacity to perform under the transportation-related contract(s).

Subpart C—Participating Lenders

§ 22.21 Participation criteria.

A lender who participates in the STLP must meet the following criteria:

- (a) It must operate as a lending institution certified by the Federal Deposit Insurance Corporation (FDIC), Federal Reserve Board, Office of the Comptroller of the Currency, Office of Thrift Supervision, Community Development